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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Tammy L. Barber, a single  
woman,

Plaintiff,

v.

Jaime and Jeremy Lilly, wife  
and husband, *et al.*,

Defendants.

Case No. CV-13-01270-PHX-LOA

**PLAINTIFF'S MOTION FOR  
ORDER AUTHORIZING  
ALTERNATIVE SERVICE**

Plaintiff, Tammy L. Barber ("Barber"), by and through undersigned counsel, Lubin & Enoch, P.C., moves the Court to authorize service of the Summons and a copy of the Complaint on Defendants Jaime and Jeremy Lilly (the "Lillys") and AZ Pool Supplies, Inc. ("AZ Pool") via (1) e-mail [[info@azpoolsupplies.com](mailto:info@azpoolsupplies.com)], (2) facsimile (480-607-1904), and (3) certified mail with return receipt requested to the following two (2) addresses:

**WORK**

Jaime and Jeremy Lilly  
AZ Pool Supplies, Inc.  
10267 North Scottsdale Road

1 Scottsdale, Arizona 85253<sup>1</sup>

2 and

3 HOME

4 Jaime and Jeremy Lilly  
5 20913 North 37<sup>th</sup> Way  
6 Phoenix, Arizona 85050

7 Fed. R. Civ. P. 4(e)(1); Ariz. R. Civ. P. 4.1(k). Efforts  
8 to serve the Defendants through one of the means authorized  
9 by Arizona Rule of Civil Procedure 4.1(c) have proven  
10 impracticable.

11 The grounds for this Motion are set forth below:

12 1. On June 26, 2013, three Summonses were issued in  
13 the above-captioned matter.

14 2. On June 27, 2013, Barber attempted, but was unable,  
15 to serve the Lillys and AZ Pool at their store, located at  
16 10267 North Scottsdale Road, Scottsdale, Arizona 85253. See  
17 attached Exhibits A, B, and C.

18 3. Barber again unsuccessfully attempted to serve the  
19 Lillys at their store on June 28, July 1, and July 3. See  
20 attached Exhibits A, B, and C.

21 4. On July 9, 2013, after four failed attempts to  
22 serve the Lillys at their store, Barber attempted to serve  
23 the Lillys at their home, located at 20913 North 37th Way,  
24 Phoenix, Arizona 85050. Although the process server was  
25 again unsuccessful, he saw someone look out the peephole.

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26 <sup>1</sup> With the exception of the Lilly's home address, all of the  
27 other contact information was gleaned from the "Contact Us" portion  
28 of the AZ Pool website, <http://www.azpoolsupplies.com/contact-us/>.

1 He also confirmed with a letter carrier that the Lilllys did,  
2 in fact, live at that address. See attached Exhibits D, E,  
3 and F.

4 5. Barber attempted to serve the Lilllys at home again  
5 on July 13, July 18, and July 24. All attempts were  
6 unsuccessful, despite the fact that the process server could  
7 see someone look through the peephole each time. See  
8 attached Exhibits D, E, and F.

9 6. Barber again attempted service on the Lilllys and AZ  
10 Pool Supplies at the business address on three occasions:  
11 the afternoons of September 4 and September 7. On the first  
12 day, a company representative told the process server that  
13 Jeremy Lilly had just stepped out and that Jaime Lilly was  
14 out of town. See Exhibits G, H, and I.

15 7. On September 12, the process server again attempted  
16 service at the work address and was told Jeremy Lilly is  
17 rarely in the office and that Jaime Lilly because her mother  
18 was sick. See Exhibits G, H, and I.

19 8. The process server then attempted service on the  
20 mornings of September 14 and September 15 at the Lilllys'  
21 home address. On both occasions, there was no answer at the  
22 door, but someone looked at the peephole at him. See  
23 Exhibits J, K, and L.

24 9. The Lilllys are aware that they are being sued, but  
25 appear to be avoiding the process server. On July 1, 2013,  
26 Jeremy Lilly sent Barber's daughter a text message asking,  
27 "Did you know your mom is trying to sue us?" Lilly  
28

1 continued, stating, "Your mom is trying to sue us for  
2 overtime pay, even though she was always paid in full on-  
3 time...." See attached Exhibit M.

4 10. In an abundance of caution and in accordance with  
5 Federal Rule of Civil Procedure 4(e)(1), which defers to  
6 Arizona Rule of Civil Procedure 4.1(k), the Summons and a  
7 copy of the Complaint were sent via the three methods set  
8 forth above. A copy of this motion was also sent via the  
9 same means.

10 **WHEREFORE**, Barber respectfully requests the Court to  
11 grant this motion and sign the proposed Order submitted  
12 herewith.

13 RESPECTFULLY SUBMITTED this 24<sup>th</sup> day of September, 2013.

14 LUBIN & ENOCH, P.C.

15  
16 s/Nicholas J. Enoch  
17 Nicholas J. Enoch, Esq.  
Attorneys for Plaintiff

18 **CERTIFICATE OF SERVICE**

19 I hereby certify that on the 24<sup>th</sup> day of September 2013, I  
20 electronically transmitted the attached Motion to the U.S.  
21 District Court Clerk's office using the CM/ECF System for  
filing. I further certify that, on this same date, I caused  
22 to be hand-delivered the same Notice to the following  
recipients:

23 Honorable Lawrence O. Anderson  
24 United States Magistrate Judge for the District of Arizona  
Sandra Day O'Connor U.S. Courthouse, Ste. 322  
401 West Washington Street, SPC 11  
Phoenix, Arizona 85003

25 Copy of the foregoing Motion sent this same date via e-mail  
26 [[info@azpoolsupplies.com](mailto:info@azpoolsupplies.com)], facsimile (480-607-1904), and  
27 certified mail with return receipt requested to:  
28

1 Jaime and Jeremy Lilly  
2 AZ Pool Supplies, Inc.  
3 10267 North Scottsdale Road  
4 Scottsdale, Arizona 85253  
5 Defendants *pro per*

6  
7 Jaime and Jeremy Lilly  
8 20913 North 37<sup>th</sup> Way  
9 Phoenix, Arizona 85050

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11 /s/Cristina Sanidad  
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